

Broadcasting Services (Complaints Handling) Regulations, 2022

IT is hereby notified that the Minister of Information, Publicity and Broadcasting Services has, in terms of section 46 of the Broadcasting Services Act [*Chapter 12:06*], approved the following regulations made by the Broadcasting Authority of Zimbabwe: —

Title

1. These regulations may be cited as the Broadcasting Services (Complaints Handling) Regulations, 2022.

Interpretation

2. In these regulations —

“apology” means a written regretful acknowledgement of an offence, act or failure by a licensee;

“complaint” means a written statement or grievance submitted by any person, company, organisation or entity to the Authority, as the case may be, that relates to the action or performance of a licensee in providing his or her service;

“complainant” means any person, company, organisation or entity who is a consumer of broadcasting services who submits a complaint;

“rebuttal” means the written act of refuting allegations by offering a contrary contention or argument;

“retraction” means a written statement of withdrawal of an earlier statement.

Application

3. The purpose of these regulations is to prescribe the form and manner in which complaints shall be dealt with and to ensure that complaints received from complainants are dealt with completely and efficiently and corrective measures are taken timeously.

Complaints handling procedure

4. (1) Any complaint related to the conduct of a licensee shall first be lodged with the licensee and shall only be escalated to the Authority if the complainant is not satisfied with the licensee’s action:

Provided that a person shall lodge their complaint to the licensee within a period of 30 days from the date of occurrence of the act complained against.

(2) A complainant whose complaint is not attended to or remedied by a licensee within 14 days of receipt of the complaint by the licensee concerned may lodge his or her complaint in writing with the Authority.

(3) All complaints shall be lodged with the Authority in writing and shall be made by completing the prescribed Form BSC1 –Broadcasting Services Complaints Form provided in the Schedule.

(4) The complaint shall include the following—

- (a) the names and addresses of the party lodging the complaint;
- (b) the subject of the complaint and its brief overview;
- (c) the name of the licensee, location where the said service was received, the programme title, date and time aired;
- (d) the sections of the Act or regulations breached (if familiar with the Act and its regulations) or the issue causing the complaint;
- (e) a copy of any relevant supporting documents or evidence, including copies of correspondence relating to the complaint with the offending licensee;
- (f) the basis of the complaint, including reason of dissatisfaction with the resolution or response provided by the licensee, where applicable;
- (g) nature of damage or injury suffered or violation complained; and
- (h) the relief or remedy sought.

(5) In cases where the complainant is disadvantaged due to the lack of language and or writing skills or has some form of disability which may render him or her unable to clearly present the complaint, the complainant may seek assistance from authorised officers of the Authority, legal representatives of their own choice and commissioners of oaths.

Complaint procedure by licensees

5. (1) Every licensee shall establish a procedure for dealing with complaints by consumers of its services which ensures that—

- (a) every such complaint is attended to within a reasonable time and in any case within fourteen days by a person having the authority to effect any remedial action that may be necessary; and
- (b) the complainant is made aware of his or her right to complain to the Authority if the complaint is not addressed.

(2) Every licensee shall keep a record of all complaints made by consumers and make the record available for inspection at the request of the Authority.

(3) The Authority shall ensure that such complaints are dealt with adequately and to the satisfaction of all parties.

(4) If a complaint referred to in subsection (1) is not attended to or addressed within the time specified or to the satisfaction of the complainant, the consumer concerned may lodge the complaint in a prescribed form with the Authority in accordance with these regulations.

Complaints handling by Authority

6. (1) The complaints handling process will only commence once the Authority receives a duly completed Form BSC1 containing all the required details from the complainant.

(2) The Authority shall establish if the complainant has exhausted all its channels in trying to solve the complaint.

(3) The complaint shall however be returned back to the complainant if it is established that the complaint was not first referred to the concerned licensee.

(4) The Authority shall as soon as reasonably practicable (in any case within 30 days) investigate and adjudicate any complaint received by it and shall, in so doing afford the complainant and the respondent an opportunity to make representations and to be heard in relation thereto.

(5) The Authority shall not deal with a complaint that is the subject of litigation pending before a court.

Notification of licensee of complaint and request for information

7. (1) The Authority shall study the substance of the complaint and notify the offending licensee of the same in writing. In this regard, the Authority may request the licensee to—

- (a) review the complaint with the view of summarily resolving the complaint to the satisfaction of the complainant;
- (b) submit an extract of the records related to the complaint;
- (c) submit a copy of recordings (audio or video) covering the period specified in the complaint for further review; and
- (d) submit copies of correspondences, reports of investigations, any other material that the Authority deems relevant to assist in resolving the matter.

(2) The licensee shall respond to the Authority within ten (10) working days from the date of Authority's request and provide the required information or items.

(3) The Authority upon receipt of the licensee's response shall forward the response to the complainant for his or her comments, the comments shall be submitted to the Authority within a period of ten (10) days.

(4) The Authority shall gather all the material evidence provided by the complainant and the licensee, together with evidence gathered from the course of its investigations to reach a decision.

(5) The Authority based on the papers submitted by the parties may, make a determination on the complaint lodged or call for a hearing.

Formal hearing

8. (1) In a case where the Authority decides that the complaint merits a formal hearing, the complainant and the licensee shall be advised in writing by the Authority of the following—

- (a) date, time and venue of the hearing; and
- (b) the complainant and the licensee shall be advised that they are entitled to legal representation.

(2) The Authority shall conduct hearings of the complaint in accordance with the laws of Zimbabwe.

Authority findings

9. (1) After having considered the complaint and the representations (if any) and evidence in regard thereto, the Authority shall make its findings as regards the complaint and any findings shall be advised to both parties in writing and shall be accompanied by written reasons within a period of 10 working days.

(2) The Authority shall as soon as they determine on the complaint inform both the licensee and the complainant of such decision.

Sanctions to be imposed

10. (1) The Authority may issue sanctions against a licensee for failure to comply with the Act or regulations; these sanctions includes—

- (a) an apology;
- (b) rebuttal,
- (c) retraction;
- (d) fine;
- (e) suspension or cancellation of licence.

(2) In determining the appropriate sanction to be imposed, the Authority may take into account—

- (a) the nature, duration, gravity and extent of the offending conduct;
- (b) the cooperative behaviour of the licensee;
- (c) the licensees' record of breaches;
- (d) any financial benefit the licensee might have gained as a result of the broadcast;
- (e) whether the licensee has previously been found to have contravened the Act or regulations;
- (f) the business operations of the licensee; and
- (g) the overall financial state of the licensee.

Record of proceedings

11. (1) The Authority shall keep a record of all complaints received by it and of all its proceeding, rulings and findings.

(2) The records referred to in subsection (1) shall be kept at the offices of the Authority and be open for public inspection by interested parties during the normal office hours of the Authority.

(3) The Authority shall at the request of any interested party and on payment of such fees as may be prescribed, furnish him or her with a certified copy of the record or extract from any record referred to in subsection (1).

(4) Records mentioned in subsection (3) above shall be submitted by the Authority to the National Archives of Zimbabwe, established in terms of the National Archives of Zimbabwe Act [Chapter 25:06], after a period of five (5) years.

(5) When submitting information to the Authority, a complainant or a licensee may identify information that it claims to be confidential information, and such information marked as confidential may not be disclosed by the Authority without the prior consent of the party that claimed confidentiality.

SCHEDULE (Section 4(3))

Form BSC1

BROADCASTING SERVICES COMPLAINTS FORM

In accordance with Section 40(4) of the Broadcasting Services Act, [Chapter 12:06], the Broadcasting Authority of Zimbabwe hereby prescribe a Complaints form—

Instructions on how to complete this form

- attach annexures wherever necessary;
- do not leave any questions blank or unanswered; where necessary answer “not applicable” or “not known”;
- all responses in this form and all annexures shall be type written;
- upon completion the originals of this complaints form and supporting annexures shall be submitted to:

The Chief Executive Officer,
Broadcasting Authority of Zimbabwe,

27, Boscobel West Drive,
Highlands, Harare; or
P.O Box 496, Causeway
Harare.

All inquiries concerning this form should be directed to the Chief Executive Officer at the above address or on (024) 443465-67.; **email info@baz.co.zw**

1. Complainant's Details

(a) Individuals

- 1.1 First Names:
.....
- 1.2 Surname:.....
.....
- 1.3 I.D. No.
.....
- 1.4 Address:
.....
- 1.5 Telephone:
.....
- 1.6 E-mail:.....
.....

(b) Other Organisation or Company

- 1.7 Name of Organisation:.....
- 1.8 Address of Organisation
- 1.9 Telephone:
- 1.10 E-mail:
- 1.11 Person Representing Entity:
- 1.12 First Name/s:.....
- 1.13 Surname:
- 1.14 I.D. No.:
- 1.15 E-Mail:

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Details of Licensee Involved in the Complaint

2. Name of Broadcaster/Station
.....
 3. Place where service was received
.....
 4. Programme
Title
.....
 5. Date and Time programme aired
.....
 6. Details of Nature of Complaint
.....
 7. Details of relevant regulations or Acts breached if any
.....
 8. Attach any relevant supporting evidence including correspondence with
offending licensee
.....
 9. Basis for dissatisfaction with resolution of offending licensee
.....
 10. Nature of damage suffered due to violation complained of
.....
 11. Details of Relief sought
.....
- Date Complaint is submitted:
- Signature of Complainant:.....

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